



December 22, 2002

VIA ELECTRONIC FILING

Marlene H. Dortch  
Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW, TW-B204  
Washington DC 20554

RE: WC Docket No. 02-314 – Application of Qwest Communications International Inc. for Authorization to Provide In-Region, InterLATA Service in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming

Dear Ms. Dortch:

PageData herein responds to Qwest's Consolidated Matrix, dated December 18, 2002, filed electronically in this docket, especially pages 30-31 concerning information Qwest provided the Commission about PageData and the Arch Confidential Billing Settlement Agreement (multi-state agreement covering all 14 of Qwest's states). Qwest had been in violation of federal and Iowa laws for not filing all interconnection agreements. Qwest voluntarily submitted the Arch agreement as an interconnection agreement to the State of Iowa to come into compliance with the Iowa Utility Board Order, but Qwest has refused to file it in other states. Qwest is misleading the Commission by saying the agreement is not in effect. Qwest refuses to recognize that it has discriminated against many carriers by providing preferential treatment to key carriers in its territory and not filing those agreements in order to maintain its monopoly. Qwest has hidden a litany of illegal acts in a complicated scheme that only a few states have taken the resources to unravel.

Qwest has discriminated against PageData. PageData requested the same terms and conditions that Arch, PageNet, Metrocall, and Royal Paging received in settlements, but Qwest denied PageData its statutory rights to opt in to the same terms and conditions.

Qwest has not explained to the Commission why a few carriers have been given preferential treatment and by what process these carriers were selected other than the evidence brought forth in state investigations that the carriers given preferential treatment would not participate in state-level 271 proceedings. This is a gross violation of the Act.

Qwest filed confidential billing settlements as interconnection agreements in states that were investigating Qwest's unfiled agreements, but now Qwest is claiming the majority of the agreements only settle back disputes and have no going forward terms or have been terminated and are no longer available. This is another scheme by Qwest. Qwest's statements in Items 53 and 54 in the Description of Terms and Status of its Consolidated Matrix dated December 18,

2002, when read for the meaning of each word indicates that discrimination has taken place and continues. Those words indicate that Qwest had settled historic disputes and they do not want to extend those same terms to other carriers. Qwest's scheme is to call everything historic settlements with no going forward terms to force state and federal authorities to investigate contract by contract. The states with little resources felt overwhelmed and left it up to the Commission to investigate.

Qwest did not mention that the Arch agreement (a multi-state agreement in each of Qwest's states) is still in effect because it is filed as an interconnection agreement amendment in Iowa under docket NIA-00-32. Qwest opened up a window for a short period of time for the selected carriers with unfiled interconnection agreements and then once Qwest got caught they closed the window by terminating the agreements so no other carrier could adopt the terms and conditions. Qwest violated the law by not filing those agreements in the states.

Also, the information that Qwest provided in the Declaration of Larry B. Brotherson, paragraph 18, is absolutely void of any truth with the exception of the fact that Qwest did file the Arch confidential billing settlement as an interconnection agreement in Iowa. As far as Iowa is concerned it is still in effect today and it has not been superceded. Before Qwest's supposed suspension of the agreement, Qwest extended the benefits in the confidential billing settlement to at least seven other selected carriers in the paging industry. Qwest has continually deprived PageData of its statutory right to opt into favorable interconnection terms that should have been made available to PageData and other carriers and that still would be available to PageData and other carriers if they had been made part of our own interconnection agreements. Qwest did not make the favorable terms available during the time period the secret agreements were in effect because they did not publicly file the agreements.

Qwest has not settled with PageData because PageData is a small, aggressive carrier that provides services that Qwest felt smaller carriers should not. Qwest failed to connect with PageData at any technically feasible point in the LATA (rights confirmed in the FCC Order DA 02-1731, dated July 17, 2002). Qwest restricted the services that a CMRS carrier can provide, in violation of Section 51.309. PageData refused to allow Qwest to restrict the types of services that can be provided on the facilities and did not agree to the restrictions against connecting at any technically feasible point in the LATA. These are some of the reasons why Qwest has not settled with PageData on the same terms and conditions as Arch or Royal Paging. The revealed secret settlement formula for both large and small companies is the same, no matter what state they were in. The larger carriers such as Metrocall, Arch and PageNet negotiated multi-state interconnection agreement settlements. For all of these carriers, Qwest used the same formula to settle the same type of disputes, but PageData and many others have not received the same settlement offers.

The Commission needs to make sure that all interconnection agreements are available for adoption by carriers that were not in the previous select group. The burden should not be left to small carriers, such as PageData, to unravel the intricate discriminatory schemes that Qwest has set up. The Commission ought to make it where carriers do not have to spend millions of dollars and several years trying to adopt favorable terms and conditions of interconnection agreements that have been in effect and that should have been filed. Select companies have already enjoyed

and prospered from these benefits for years while other carriers have been denied their statutory rights. The Commission needs to recognize that there is something else going on. It would have been far cheaper for Qwest to settle with all the carriers that are complaining, but the economic reward if they succeed in their 271 application would be to eliminate much competition in one fell swoop. The Commission should not reward Qwest with the most coveted prize that an ILEC can receive—271 authority—and the public announcement that Qwest's markets are open to competition.

Sincerely,

/s/ Joseph B. McNeal

Joseph B. McNeal

cc: Michael Carowitz (by email)  
Gary Remondino (by email)